IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of decision : 03.07.2014

1) **CRA-1399-SB-2003**

Lachhman Singh and another

... Appellants

Versus

State of Punjab

... Respondent

2) **CRA-838-SB-2004**

Mohinder Singh @ Bhalla

... Appellant

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Vikas Mohan Gupta, Advocate
for the appellants (in CRA-1399-SB-2003).

Ms. Sonal Dutta, Advocate
for the appellant (in CRA-838-SB-2004).

Mr.Neeraj Sharma, AAG, Punjab.

REKHA MITTAL, J.

This order will dispose of the aforesaid appeals as these have emerged out of the same judgment dated 07.04.2013 passed by the Additional Sessions Judge, Roopnagar whereby the appellants have been convicted and sentenced for commission of offence punishable under

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Sections 307 and 452 of the Indian Penal Code (in short 'IPC'), extracted hereinbelow:-

Name of Convict	**Under Section**	**Sentence (R.I.)**	**Fine(in `)**	**In Default (R.I.)**
Lachhman Singh	307/34 IPC	3 years	500/-	1 month
	452 IPC	1 year	500/-	1 month
Mohinder Singh @ Bhalla	307 IPC	5 years	1000/-	2 months
	452 IPC	1 year	500/-	1 month

The facts, in brief, culled out from the judgment of the trial Court are that on 08.04.2001, Sher Singh complainant had gone to the residence of his brother Sant Singh. Chand Singh son of Sant Singh was sitting on a cot in the court yard of his house and was taking meals. At about 07.30 PM, Lachhman Singh, Bhalla, Angrez Singh sons of Prem Singh along with Dilbara Singh and Gurmukh Singh trespassed the house of Sant Singh and started hurling abuses. Dilbara Singh and Gurmukh Singh caught hold of Chand Singh and Lachhman Singh gave an axe blow which landed on the head of Chand Singh. Bhalla dealt a Kirpan blow resulting in injury in the stomach of Chand Singh and another Kirpan blow caused injury on his chest. Chand Singh raised alarm and accused Angrez Singh dragged him by holding his hair. Sher Singh and Sant Singh rescued Chand Singh from the accused otherwise they could cause further injuries.

The motive for the occurrence is that in the earlier part of the day, Chand Singh's son had an altercation with Lachhman Singh's son and when the matter was reported to Chand Singh, he slapped Lachman Singh's

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son. Chand Singh, injured-victim was shifted to Civil Hospital, Ropar but he was referred to PGI, Chandigarh.

Rajinder Singh ASI, Police Station Sadar Ropar on receipt of a wireless message Ex.PW9/A from Police Post, PGI, Chandigarh went there, sought opinion of the doctor regarding fitness of the injured to make statement but the doctor declared the patient to be not fit vide opinion Ex.PW4/A. Sher Singh complainant got recorded his statement Ex.PA on the intervening night of 9/10.04.2001, on the basis whereof, formal FIR Ex.PW9/C was registered in Police Station Sadar Ropar for offence punishable under Sections 324, 452, 148 & 149 IPC. During investigation, blood stained bann (strings) after cutting the same from the cot was taken into possession vide memo Ex.PB. Site plan of the place of occurrence Ex.PW9/F was prepared. On the injured being declared fit to make statement on 11.04.2001, his statement was recorded.

Mohinder Singh @ Bhalla was arrested in the case and he made a disclosure statement on 18.04.2001 and got recovered the incriminating weapon i.e. Kirpan which was taken into police possession vide recovery memo Ex.PW6/B. The site plan of place of recovery Ex.PW9/G was prepared. Medical record of the injured including his case summary from PGI was obtained and offence under Section 307 IPC was added. Parcel of blood stained bann was sent to Forensic Science Laboratory. On receipt of report of Chemical Examiner and completion of necessary investigation formalities, charge sheet was submitted in the Court for commencement of trial.

The case was committed to the Court of Sessions as offence

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under Section 307 IPC being exclusively triable by the said Court. After hearing counsel for the parties and considering the materials on record, the accused were charged for committing offence punishable under Sections 148, 452, 307 read with Section 149 IPC to which they pleaded not guilty and claimed trial.

To prove its case, the prosecution examined Sher Singh (complainant) PW1, Chand Singh (injured-victim) PW2, Dr.Puneet Mittal PW3, Dr.Akshay, Senior Resident of the Plastic Surgery, Chandigarh, Dr. Devendra Singh, Senior Resident, Department of General Surgery PGI, Chandigarh PW5, Nachhatar Singh PW6, Head Constable Shamsher Singh PW7, Jatinder Nath, Draftsman PW8, ASI Rajinder Singh PW9 and Constable Gurmeet Singh PW10.

On evidence of the prosecution being closed, statements of the accused in compliance with provisions of Section 313 Cr.P.C. were recorded through which they denied the incriminating circumstances put to them and pleaded their innocence and false implication. All of them raised the plea that they did not inflict any injury to the complainant party and have been falsely involved on account of enmity and party faction in the village. However, they did not examine any witness in defence.

The learned trial Court, on appreciation of evidence led by the prosecution and the plea raised by the accused came to hold that the prosecution has successfully proved guilt of accused Lachhman Singh and Mohinder Singh for committing offence under Sections 307 and 452 IPC and accordingly they were convicted and sentenced, noticed hereinabove. However, the other accused namely Angrez Singh, Dilbara Singh and

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Gurmukh Singh were acquitted of the charge against them.

Feeling aggrieved by the judgment passed by the trial Court, separate appeals have been preferred by Lachhman Singh and Mohinder Singh.

Counsel for the appellants, after arguing for some time and perceiving that the Court does not seem to be convinced with the submissions, gave up his challenge to the conviction of the appellants and proposed to be heard only qua quantum of sentence.

Counsel has submitted that Lachhman Singh, who has been convicted for committing offence punishable under Section 307 IPC with the aid of Section 34 thereof for causing injuries to the victim by his associate namely Mohinder Singh, has already suffered entire substantive sentence awarded by the trial Court. Mohinder Singh, the other accused in the case has also undergone custody for a period of 2 years 5 months and 7 days out of substantive sentence of 5 years for offence punishable under Section 307 IPC. It is argued that no other criminal case has been registered against appellant Mohinder Singh much less he being a previous convict. It is argued with vehemence that keeping in view character and antecedents of Mohinder Singh @ Bhalla, the substantive sentence awarded to him may be reduced to the period already undergone. Another submission made by counsel is that though Mohinder Singh belongs to a labour class but he is ready to pay some compensatin to the injured, Chand Singh.

Counsel for the State, on the other hand, argues that Mohinder Singh does not deserve any leniency in the matter of sentencing as he inflicted serious injuries in the abdomen and chest of the injured-victim.

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I have heard counsel for the parties and perused the case file.

As counsel for the appellants had given up challenge to findings recording conviction of the appellants and even otherwise I do not find any error much less illegality in appreciation of evidence by the trial Court and the findings of the said Court being substantiated by evidence on record, the judgment of the trial Court in regard to conviction of the appellants for the aforesaid offences is ordered to be affirmed.

Admittedly, Lachhman Singh appellant has already undergone entire sentence awarded by the trial Court. So far as sentence awarded to Mohinder Singh @ Bhalla, the occurrence in question took place on 08.04.2001. He has already suffered torment of criminal proceedings for the past over 13 years. He has suffered actual custody for a period of 2 years and about 6 months out of substantive sentence of 5 years for offence punishable under Section 307 IPC. There is nothing on record to suggest that Chand Singh the injured-victim has suffered any disability due to sustaining of injuries in the occurrence. Perusal of custody certificate substantiates the plea of the appellant that no other criminal case has ever been registered against him much less pending.

In the light of cumulative effect of facts and circumstances discussed hereinabove, the substantive sentence awarded to Mohinder Singh for offence punishable under Section 307 IPC is reduced to the period already undergone. However, Mohinder Singh shall be liable to pay an amount of Rs.25,000/- to the injured-victim towards compensation. The appellant is directed to deposit the amount of compensation in the trial Court.

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With these observations, the appeals stand disposed of.

(REKHA MITTAL)
JUDGE

July 03, 2014.
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